

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6838

BILL NUMBER: HB 1175

NOTE PREPARED: Apr 8, 2013

BILL AMENDED: Apr 2, 2013

SUBJECT: Public Records.

FIRST AUTHOR: Rep. Friend

FIRST SPONSOR: Sen. Holdman

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill allows a state or local government public agency to charge a fee for any records search in excess of two hours. It provides that a public agency may not charge a search time fee if another fee is charged that covers the public records request. It provides that the search fee must be an hourly fee that does not exceed the lesser of: (1) the hourly rate of the person making the search; or (2) \$20 per hour. It provides that the public agency may charge only for time that the person making the search actually spends in searching for the record, and may not charge for computer run time. It requires the fee to be prorated to reflect any search time of less than an hour. It prohibits a public agency from establishing a minimum fee for searching for a record. The bill also requires a public agency to make a good faith effort to complete a search for a record within a reasonable time in order to minimize the amount of the search fee.

The bill prohibits a public agency from charging a fee for a public record transmitted by electronic mail except for: (1) a fee charged for reprogramming a computer system if the reprogramming is required to separate disclosable information from nondisclosable information; (2) a certification or search fee set by statute or ordered by a court; or (3) a fee charged for providing an electronic map. It prohibits a public agency from charging for a copy of a public record that is made with a cellular telephone by a noncommercial entity for a noncommercial purpose if the public record contains the noncommercial entity's name. The bill also provides that if a public record is in an electronic format, a public agency (excluding the office of the county recorder) shall provide an electronic copy or a paper copy, at the option of the person making the request for a public record.

The bill provides that the county recorder shall reject for filing or recording any document containing blood or other bodily fluids.

Effective Date: July 1, 2013.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) This bill allows fees to be charged by state and local agencies for public records searches that take longer than two hours. However, the bill does not allow these fees to be charged if fees are being charged for the following: providing a duplicate of a computer tape, computer disc, microfilm, or similar record system; providing enhanced access to a public record; permitting a governmental entity to inspect public records by electronic device; and providing an electronic map. There are no data relating to public records searches or search times. The amount of fees that may be collected under the bill is indeterminable. The impact will depend upon whether agencies assess these fees, and the extent to which employees are engaging in public records searches that qualify for the assessment of fees.

The bill also prohibits public agencies from charging fees for public records transmitted by electronic mail and for copies of records made with cellular telephones by noncommercial entities for noncommercial purposes if the public record contains the noncommercial entity's name. To the extent that public agencies are charging these fees for public records, then revenue from these fees would decrease.

Explanation of Local Expenditures:

Explanation of Local Revenues: See *Explanation of State Revenues*.

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources:

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